



1995 SENATE BILL 240

June 1, 1995 – Introduced by Senators LEEAN, ELLIS and RUDE, by request of Governor Tommy G. Thompson. Referred to Committee on Health, Human Services and Aging.

1 **AN ACT to repeal** 50.02 (6); **to amend** 20.435 (1) (gm); and **to create** subchapter
2 III of chapter 50 [precedes 50.50], 146.81 (1) (p) and 146.82 (2) (a) 17. of the
3 statutes; **relating to:** regulating rural medical centers, granting rule-making
4 authority, making an appropriation and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, the department of health and social services (DHSS) must investigate the concept of regulating a new category of health care providers known as rural medical centers.

This bill eliminates that provision and establishes rural medical centers as a category of health care providers that, beginning on January 1, 1997, must be licensed, inspected and otherwise regulated by DHSS. Under the bill, a facility may be regulated as a rural medical center if it is located in a county, city, town or village that has a population of less than 15,000 and in an area that the federal bureau of the census has not defined as an urbanized area and if it provides 2 or more health care services. The health care services are those provided by a hospital, a nursing home, a hospice, a rural health clinic or an ambulatory surgery center; or they are home health services, outpatient physical therapy services, end-stage renal disease services or services that are specified by DHSS by rule.

The bill establishes licensing procedures and requires that DHSS promulgate rules that establish standards for operation of rural medical centers, minimum requirements for license issuance, licensure fee amounts, and procedures and criteria for waiver of or variance from standards and requirements. The bill authorizes DHSS to conduct unannounced inspections of rural medical centers and requires a rural medical center to provide access to any patient health care records necessary to fulfill the purpose of any DHSS inspections or investigations. The bill prohibits an unlicensed entity from using the phrase “rural medical center” to describe itself, prohibits intentional interference with any investigation by DHSS of

- 1 **(3)** “Health care services” means any of the following:
- 2 (a) Care that is provided in or by any of the following:
- 3 1. A hospital.
- 4 2. A nursing home.
- 5 3. A hospice.
- 6 4. A rural health clinic.
- 7 5. An ambulatory surgery center.
- 8 (b) Home health services.
- 9 (c) Outpatient physical therapy services.
- 10 (d) End-stage renal disease services.
- 11 (e) Services that are specified in rules that the department promulgates.
- 12 **(4)** “Home health services” has the meaning given in s. 50.49 (1) (b).
- 13 **(5)** “Hospice” has the meaning given in s. 50.90 (1).
- 14 **(6)** “Hospital” has the meaning given in s. 50.33 (2) (a) or (b).
- 15 **(7)** “Medicare” has the meaning given in s. 49.45 (3) (L) 1. b.
- 16 **(8)** “Outpatient physical therapy services” has the meaning given under 42
- 17 USC 1395x (p).
- 18 **(9)** “Patient” means an individual who receives services from a rural medical
- 19 center.
- 20 **(10)** “Rural health clinic” has the meaning given under 42 USC 1395x (aa) (2).
- 21 **(11)** “Rural medical center” means a facility, building, structure, institution or
- 22 place that meets all of the following conditions:
- 23 (a) Provides 2 or more health care services through the facility, building,
- 24 structure, institution or place or through a related corporate entity.

1 (b) Is located in a county, city, town or village that has a population of less than
2 15,000 and that is in an area that is not an urbanized area, as defined by the federal
3 bureau of the census.

4 **50.51 Departmental powers.** The department shall do all of the following:

5 (1) Provide uniform, statewide licensing, inspection and regulation of rural
6 medical centers as specified in this subchapter.

7 (2) Promulgate rules that establish all of the following:

8 (a) For the operation of rural medical centers, standards that are designed to
9 protect and promote the health, safety, rights and welfare of patients who receive
10 health care services in rural medical centers.

11 (b) Minimum requirements for issuance of a provisional license, an initial
12 regular license or a regular license renewal to rural medical centers.

13 (c) Provisional rural medical center licensure fees and regular rural medical
14 center initial licensure and licensure renewal fees. The amounts of the fees shall be
15 based on the health care services provided by the rural medical center.

16 (d) A procedure and criteria for waiver of or variance from standards under par.

17 (a) or minimum requirements under par. (b).

18 **50.52 Licensing procedure and requirements.** (1) No person may
19 conduct, maintain, operate or permit to be conducted, maintained or operated health
20 care services at a rural medical center unless the rural medical center is licensed by
21 the department.

22 (2) The department shall issue a provisional license, an initial regular license
23 or a regular license renewal as a rural medical center to an applicant if all of the
24 following are first done:

1 (a) The applicant pays the appropriate license fee, as established under s. 50.51
2 (2) (c). Fees collected under this paragraph shall be credited to the appropriation
3 under s. 20.435 (1) (gm) for licensing and inspection activities.

4 (b) Except as provided in par. (c), the department inspects the health care
5 services provided by the applying rural medical center and finds that the applicant
6 is fit and qualified and meets the requirements and standards of this subchapter and
7 the rules promulgated under this subchapter.

8 (c) In lieu of conducting the inspection under par. (b), the department accepts
9 evidence that an applicant has applicable current, valid licensure or certification as
10 a hospital, a nursing home, a hospice, an adult family home, a community-based
11 residential facility, a rural health clinic or a home health agency or has an agreement
12 to participate in medicare as an ambulatory surgery center.

13 (3) Each license shall bear the name of the owner of the rural medical center,
14 the name and address of the rural medical center and the health care services that
15 the department authorizes the rural medical center to provide.

16 (4) Unless sooner revoked or suspended, an initial regular license or a regular
17 license renewal issued to a rural medical center is valid for 24 months from the date
18 of issuance and a provisional license issued to a rural medical center is valid for 6
19 months from the date of issuance.

20 (5) Each license shall be issued only for the rural medical center and owner that
21 are named in the license application and may not be transferred or assigned.

22 **50.53 Inspections and investigations.** (1) The department may conduct
23 unannounced inspections or investigations of a rural medical center as the
24 department considers necessary.

1 **(2)** A rural medical center that is inspected or investigated under this section
2 shall provide the department with access to patient health care records, regardless
3 of the source of patient health care payment, to fulfill the purpose of any inspections
4 or investigations that the department conducts.

5 **50.54 Prohibitions.** **(1)** An entity that is not licensed as a rural medical
6 center under this subchapter may not designate itself as a “rural medical center” or
7 use the phrase “rural medical center” to represent or tend to represent the entity as
8 a rural medical center or services provided by the entity as health care services
9 provided by a rural medical center.

10 **(2)** No person may do any of the following:

11 (a) Intentionally prevent, interfere with or impede an investigation by the
12 department of an alleged violation or enforcement by the department of a
13 requirement of this subchapter or the rules promulgated under this subchapter.

14 (b) Intentionally retaliate or discriminate against a patient or rural medical
15 center employe for doing any of the following:

16 1. Contacting or providing information to a state agency, as defined in s. 16.004

17 (12) (a).

18 2. Initiating, participating in or testifying in an action to enforce any provision
19 of this subchapter or rules promulgated under this subchapter.

20 (c) Intentionally destroy or modify the original report of an inspection that the
21 department conducts under this subchapter or the rules promulgated under this
22 subchapter.

23 **50.55 Penalties and remedies.** **(1) FORFEITURES.** (a) Any person who
24 violates this subchapter or any rule promulgated under this subchapter, except s.

1 50.54 (2), may be required to forfeit not less than \$100 nor more than \$500 for each
2 offense. Each day of continued violation constitutes a separate offense.

3 (b) In determining whether a forfeiture is to be imposed and in fixing the
4 amount of the forfeiture to be imposed, if any, for a violation, the department shall
5 consider all of the following factors:

- 6 1. The gravity of the violation.
- 7 2. Good faith exercised by the licensee.
- 8 3. Any previous violations committed by the licensee.
- 9 4. The financial benefit to the rural medical center of committing or continuing
10 to commit the violation.

11 (c) The department may directly assess forfeitures provided for under par. (a).
12 If the department determines that a forfeiture should be assessed for a particular
13 violation or for failure to correct it, the department shall send a notice of assessment
14 to the rural medical center. The notice shall specify the amount of the forfeiture
15 assessed, the violation, and the statute or rule alleged to have been violated, and
16 shall inform the licensee of the right to a hearing under par. (d).

17 (d) A rural medical center may contest an assessment of forfeiture by sending,
18 within 10 days after receipt of notice under par. (c), a written request for hearing
19 under s. 227.44 to the division of hearings and appeals under s. 15.103 (1). The
20 division shall commence the hearing within 30 days after receipt of the request for
21 hearing and shall issue a final decision within 15 days after the close of the hearing.
22 Proceedings before the division are governed by ch. 227.

23 (e) All forfeitures shall be paid to the department within 10 days after receipt
24 of notice of assessment or, if the forfeiture is contested under par. (d), within 10 days
25 after receipt of the final decision, unless the final decision is appealed and the

1 decision is in favor of the appellant. The department shall remit all forfeitures paid
2 to the state treasurer for deposit in the school fund.

3 **(2) OTHER PENALTY.** Whoever violates s. 50.54 (2) may be fined not more than
4 \$1,000 or imprisoned for not more than 6 months or both.

5 **(3) INJUNCTION.** The department may, upon the advice of the attorney general,
6 who shall represent the department in all proceedings under this subsection,
7 institute an action in the name of the state in the circuit court for Dane County for
8 injunctive relief or other process against any licensee, owner, operator,
9 administrator or representative of any owner of a rural medical center for the
10 violation of any of the provisions of this subchapter or rules promulgated under this
11 subchapter if the department determines that the violation seriously affects the
12 health, safety or welfare of patients.

13 **50.56 Applicability.** Nothing in this subchapter or in rules promulgated
14 under this subchapter may be construed to limit the applicability of statutes or rules
15 promulgated under statutes that are not in this subchapter to a person or entity that
16 is required to be licensed as a rural medical center.

17 **SECTION 4.** 146.81 (1) (p) of the statutes is created to read:

18 146.81 (1) (p) A rural medical center, as defined in s. 50.50 (11).

19 **SECTION 5.** 146.82 (2) (a) 17. of the statutes is created to read:

20 146.82 (2) (a) 17. To the department under s. 50.53 (2).

21 **SECTION 6. Nonstatutory provisions.**

22 (1) **RULES ON RURAL MEDICAL CENTERS.** The department of health and social
23 services shall submit proposed rules required under section 50.51 (2) of the statutes,
24 as created by this act, to the legislative council staff for review under section 227.15
25 (1) of the statutes no later than July 1, 1996.

